

Update: Sexual Assault Benchbook

CHAPTER 7

General Evidence

7.6 Former Testimony of Unavailable Witness

Insert the following text after the second full paragraph on page 364, which cites *People v Meredith*:

The admission of prior testimonial statements violates a defendant's constitutional right to confrontation unless the prior statements were subject to cross-examination by the defendant and the person who made the statements is unavailable to testify. For confrontation clause purposes, the reliability of prior testimonial statements must not be determined by reference to rules of evidence governing admissibility of hearsay evidence, or by whether the statements bear "particularized guarantees of trustworthiness." *Crawford v Washington*, ___ US ___, ___ (2004). In *Crawford*, the United States Supreme Court overruled *Ohio v Roberts*, 448 US 56 (1980), which held that admission of an unavailable witness's prior statements did not violate the Sixth Amendment if the statements bear "adequate indicia of reliability." The Court declined to provide a comprehensive definition of "testimonial statement"; however, the Court stated:

"Whatever else the term covers, it applies at a minimum to prior testimony at a preliminary hearing, before a grand jury, or at a former trial; and to police interrogations." *Id.* at ___.

CHAPTER 11

Sex Offender Identification and Profiling Systems

11.2 Sex Offenders Registration Act

L. Pertinent Case Law Challenging Registration Act

4. Double Jeopardy, Equal Protection, and Due Process Under U.S. Constitution

Replace the last paragraph on page 529 and the text on page 530 with the following text:

In *Fullmer v Michigan Dep't of State Police*, ___ F3d ___, ___ (CA 6, 2004), the Court held that the public registry provisions of Michigan's Sex Offenders Registration Act do not violate the procedural due process standards for sex offender registries that were set forth in *Connecticut Dep't of Public Safety v Doe*, 538 US 1 (2003).*

*See the April 2003 update for a detailed discussion of *Connecticut Dep't of Public Safety v Doe*.